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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

CREPES DE PARIS, INC., a California Corporation, Plaintiff, vs. PARIS HOUSE OF CREPES, an unknown business entity; PARIS SEAFOOD & CREPES, an unknown business entity; ARZATE MAURICIO SALGADO, an individual and doing business as PARIS HOUSE OF CREPES and PARIS SEAFOOD & CREPES; JOSE F. MAGANA, an individual and doing business as PARIS HOUSE OF CREPES and PARIS SEAFOOD & CREPES; and LETICIA VALDEZ, an individual and doing business as PARIS HOUSE OF CREPES and PARIS SEAFOOD & CREPES; TALAT RADWAN, an individual; NATASHA RADWAN, an individual; and DOES 1-100, Defendants.	Case No.: **COMPLAINT FOR:** **1. FEDERAL STATUTORY TRADEMARK INFRINGEMENT UNDER 15 U.S.C. §1114;** **2. FEDERAL FALSE DESIGNATION OF ORIGIN AND FALSE ADVERTISING UNDER 15 U.S.C. §1125(a)** **3. CALIFORNIA UNFAIR COMPETITION AND FALSE ADVERTISING UNDER CAL. BUS. & PROF. CODE §§17200 and 17500, et seq.** **4. CALIFORNIA COMMON LAW FOR TRADEMARK INFRINGEMENT AND UNFAIR COMPETITION** **5. TRADE DRESS INFRINGEMENT**

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6. CALIFORNIA COPYRIGHT INFRINGEMENT UNDER CALIFORNIA CIVIL CODE §§ 980, et seq. AND CALIFORNIA COMMON LAW

7. VICARIOUS AND/OR CONTRIBUTORY COPYRIGHT INFRINGEMENT

8. CONVERSION

JURY TRIAL DEMANDED

Complaint Served:

Plaintiff CREPES DE PARIS, INC. (hereinafter "Plaintiff"), for his claims against PARIS HOUSE OF CREPES, an unknown business entity; PARIS SEAFOOD & CREPES, an unknown business entity; ARZATE MAURICIO SALGADO, an individual and doing business as PARIS HOUSE OF CREPES and PARIS SEAFOOD & CREPES; JOSE F. MAGANA, an individual and doing business as PARIS HOUSE OF CREPES and PARIS SEAFOOD & CREPES; LETICIA VALDEZ, an individual and doing business as PARIS HOUSE OF CREPES and PARIS SEAFOOD & CREPES; TALAT RADWAN, an individual; NATASHA RADWAN, an individual; (hereinafter collectively "Defendants"), hereby alleges as follows:

NATURE OF ACTION

1. This is a civil action for trademark infringement, unfair competition, false designation of origin, and false advertising under the Lanham Act, Title 15 United States Code (U.S.C.) §§1114 and 1125(a); as well as copyright

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infringement and vicarious and/or contributory copyright infringement under California Civil Code §§980, *et seq*. and California common law; as well as under the State of California's unfair competition and false advertising laws, specifically under California Business and Professions Code; as well as under California common law for trademark infringement and unfair competition; as well as conversion under California common law.

THE PARTIES

2. Plaintiff CREPES DE PARIS, INC. is a duly organized and existing under the laws of the State of California, with a principal place of business in Brea, California.

3. Upon information and belief, Defendant PARIS SEAFOOD & CREPES is an unknown entity, with an official business address located at 12125 Day Street, Suite F308, Moreno Valley, CA 92557-6702 owned and/or controlled by individual Defendants listed below. The same individual Defendants are also doing business as PARIS HOUSE OF CREPES. Defendant PARIS SEAFOOD & CREPES' Business License number is 32293.

4. Defendant ARZATE MAURICIO SALGADO is an individual residing in California. Based on information and belief, Defendant SALGADO is an officer, director, employee, agent, representative, or person with management authority and/or control over PARIS SEAFOOD & CREPES and PARIS HOUSE OF CREPES, and is a registered officer of the entities. Based on information and belief, Defendant SALGADO caused, authorized, ratified, approved of, and/or is responsible for actions complained of herein.

5. Defendant JOSE F. MAGANA is an individual residing in the County of San Bernardino. Based on information and belief, Defendant MAGANA is an officer, director, employee, agent, representative, or person with management

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authority and/or control over PARIS SEAFOOD & CREPES and/or PARIS HOUSE OF CREPES. Defendant MAGANA caused, authorized, ratified, approved of, and/or is responsible for actions complained of herein.

6. Defendant LETICIA VALDEZ is an individual residing in the County of San Bernardino. Based on information and belief, Defendant LETICIA VALDEZ is an officer, director, employee, agent, representative, or person with management authority and/or control over PARIS SEAFOOD & CREPES and/or PARIS HOUSE OF CREPES. Defendant VALDEZ caused, authorized, ratified, approved of, and/or is responsible for actions complained of herein.

7. Defendant TALAT RADWAN is an individual residing in the State of California. Based on information and belief, Defendant TALAT RADWAN is the owner of the premises where Defendants PARIS SEAFOOD & CREPES and/or PARIS HOUSE OF CREPES are currently doing business, and profiting from Defendants.

8. Defendant NATASHA RADWAN is an individual residing in the State of California. Based on information and belief, Defendant NATASHA RADWAN is the owner of the premises where Defendants PARIS SEAFOOD & CREPES and/or PARIS HOUSE OF CREPES are currently doing business, and profiting from Defendants.

9. Plaintiff is informed and believes, and based thereon alleges, that at all relevant times herein, Defendants knew or reasonably should have known of the acts and behavior alleged herein and the damages caused thereby, and by their inaction, ratified and encouraged such acts and behavior.

JURISDICTION AND VENUE

10. Plaintiff files this action against Defendants for trademark infringement and unfair competition under the Lanham Trademark Act of 1946, 15 U.S.C. §1051 *et seq.* (the "Lanham Act"), and related claims of unfair competition

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under the statutory and common law of the State of California. This Court has subject matter jurisdiction over Plaintiff's Lanham Act claims pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331 and 1338(a). Plaintiff further files this action against Defendants for copyright infringement and vicarious and/or contributory copyright infringement under the Lanham Trademark Act of 1946, 15 U.S.C. §1051 *et seq*.

11. This Court has supplemental jurisdiction over Plaintiff's pendent state law claims

pursuant to 28 U.S.C. § 1367 in that the state law claims are integrally interrelated with Plaintiff's federal claims and arise from a common nucleus of operative facts such that administration of Plaintiff's state law claims with its federal claims furthers the interest of judicial economy.

12. This Court has personal jurisdiction over Defendant PARIS SEAFOOD & CREPES because Defendant maintains a place of business in California *(e.g.*, Moreno Valley) and California is the domicile of Defendant PARIS SEAFOOD & CREPES. This Court has personal jurisdiction over Defendant PARIS SEAFOOD & CREPES because Defendant PARIS SEAFOOD & CREPES does business within this judicial district, and the acts complained of occurred in this judicial district. Individual Defendants are also using the name PARIS HOUSE OF CREPES under the banner of the retail store recently opened by individual Defendants.

13. This Court has personal jurisdiction over Defendant ARZATE MAURICIO SALGADO, an individual, because ARZATE MAURICIO SALGADO is a resident of California.

14. This Court has personal jurisdiction over Defendant JOSE F. MAGANO, an individual, because JOSE F. MAGANO is a resident of California.

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15. This Court has personal jurisdiction over Defendant LETICIA VALDEZ, an individual, because LETICIA VALDEZ is a resident of California.

16. This Court has personal jurisdiction over Defendant TALAT RADWAN, an individual, because TALAT RADWAN is a resident of California.

17. This Court has personal jurisdiction over Defendant NATASHA RADWAN, an individual, because NATASHA RADWAN is a resident of California.

18. This Court has personal jurisdiction over the DOE defendants because the DOE defendants are residents of California and/or because the DOE defendants maintain places of business in California and/or because the DOE defendants engage in meaningful and ongoing contacts with the residents of the State of California.

19. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because Defendant PARIS SEAFOOD & CREPES located in this judicial district. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because Defendant ARZATE MAURICIO SALGADO resides in this judicial district. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because Defendant JOSE F. MAGANO resides in this judicial district. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because Defendant LETICIA VALDEZ resides in this judicial district. The DOE defendants are also subject to personal jurisdiction in this judicial district.

20. Venue is further proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400(b) because substantial parts of events giving rise to the claims presented in this Complaint occurred in the Central District of California, including, without limitation, Defendant PARIS SEAFOOD & CREPES principal place of business being located in Moreno Valley, CA, within the Central District of California.

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21. Venue is further proper because Defendant PARIS SEAFOOD & CREPES is subject to personal jurisdiction in the Central District of California and Plaintiff's principal place of business is located within the Central District of California, then Defendant PARIS SEAFOOD & CREPES is deemed to reside in the Central District of California pursuant to 28 U.S.C. § 1391(c)(2).

22. Further, this action arises out of wrongful acts by Defendants within this judicial district. Venue is proper in this district pursuant to 28 U.S.C. 1391 because the claims asserted arise in this district.

ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

23. Plaintiff is the exclusive owner of the trademark “CREPES DE PARIS” (the “CREPES DE PARIS mark”), which is a federally registered trademark in April 12, 2016, referenced by U.S. Registration No. 4,936,207. Plaintiff is also the exclusive owner of the servicemark No. 3,293,337, registered in September 18, 2007, under “CREPES DE PARIS” mark with the Eiffel Tower in the background of the mark (the “EIFFEL TOWER mark”). The English translation of the word “de” in the mark is “of.”

24. In connection with the CREPES DE PARIS mark and EIFFEL TOWER mark, Plaintiff sells a diverse range of food products, such as crepes, cold and hot sandwiches, soups and salads, omelettes, and other food and beverages.

25. The food products mentioned above were sold and continue to be sold by Plaintiff in interstate commerce by substantially and economically affecting the interstate commerce of the United States. Furthermore, Plaintiff is advertising in its own website under www.crepesdeparis.com and has its own Yelp page for customer reviews.

26. Plaintiff personally designed the two marks and began using the marks and selling the goods which had substantial economic effect in interstate commerce as early as 2007.

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27. Before and after federally registering the EIFFEL TOWER mark, Plaintiff has continuously used the EIFFEL TOWER mark, since at least September 18, 2007, in and around the state of California, had substantial economic impact on the interstate commerce, in association with the sale, distribution, and advertising of a diverse array of food products through Plaintiff's business. Plaintiff also registered the CREPES DE PARIS mark with the United States Patent and Trademark Office in April 12, 2016. Such use has resulted in considerable goodwill in the two marks.

28. Plaintiff has spent and continues to spend considerable resources in establishing and maintaining a strong and healthy reputation and goodwill relating to the use of two marks. For example, due to Plaintiff's continuous efforts and spending of considerable resources in maintaining such reputation and goodwill, Plaintiff's business had expanded considerably throughout the Southern California by opening, operating, and maintaining several restaurants in Pasadena, Valencia, Rancho Cucamonga, Mission Viejo, Claremont, Los Angeles, and Jurupa Valley.

29. Plaintiff also spent and continues to spend considerable resources in designing and creating the wide variety of crepes designs, as well as coffee and cappuccino cream designs. Plaintiff also spent considerable resources and time in designing and creating the coffee cups, plates, and other tableware and glassware, which all contributed in adding value to the goodwill and reputation of Plaintiff's business.

30. Plaintiff's Menu also furthered the establishment in maintaining a strong and healthy reputation and goodwill of Plaintiff's business. For example, the Plaintiff's Menu begins with the category of Savory Crepes, and specifically lists the crepes as "Cheese Crepes," "Ham & Cheese Crepes," "St. Louis," "Des Amis," and others. Other categories in the Plaintiff's Menu also indicated "Sweet Crepes," "Cold Sandwiches," "Hot Sandwiches," "Soup & Salads," "Breakfast Crepes,"

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"Omelettes," and "Rolled To-Go Crepes." Specific food products are listed under the food categories. Plaintiff had substantially taken effort and time to create the Menu, and the Menu had remained consistent throughout and during the operation of Plaintiff's business, which generated tremendous amount of gross sales for the Plaintiff.

31. A trademark is a word, a name, a symbol, a device, or a combination that indicates the source of respective goods. The owner of a trademark has the right to exclude others from using a confusingly similar trademark. The owner of a trademark has the right to protect its mark from being used by others as means to confuse and deceive consumers with respect to the source of the goods the consumers are purchasing. Trademark rights arise by commercially using the trademark as a source identifier for the respective goods. By Plaintiff and his business marketing, offering to sell, advertising to sell, and selling the Plaintiff's foods products within California, thereby substantially and economically impacting interstate commerce, the term "CREPES DE PARIS," operates as a designation of source for such goods. That is, Plaintiff's and his business use in commerce of CREPES DE PARIS mark and EIFFEL TOWER mark establishes CREPES DE PARIS as a trademark, as understood by both federal law and by California state law.

DEFENDANTS' INFRINGING CONDUCTS

32. Defendant JOSE F. MAGANA began working as Plaintiff's employee in 2011. Defendant MAGANA terminated his employment with Plaintiff in April 30, 2017. Defendant LETICIA VALDEZ also began working as Plaintiff's employee in October 2016. Defendant VALDEZ terminated her employment in or around March 2017.

33. After such terminations, in or around April 2017, Plaintiff discovered that Defendants had begun to associate or were associating with Defendants

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ARZATE MAURICIO SALGADO and PARIS SEAFOOD & CREPES. Defendant PARIS SEAFOOD & CREPES is also doing business as PARIS HOUSE OF CREPES.

34. In or around May 2017, Plaintiff discovered that PARIS SEAFOOD & CREPES was opened for business, and Defendants began selling, offering to sell, distributing, marketing, and advertising to sell to the public in the premises owned by TALAT and NATASHA RADWAN. In the Yelp homepage for PARIS HOUSE OF CREPES, Plaintiff observed that the photos of PARIS HOUSE OF CREPES were exactly or substantially similar to Plaintiff's designs. Specifically, the photos in the Defendant's Yelp Page shows the coffee cream's designs, as well as the various crepes designs, which were exactly or substantially similar to the ones created by Plaintiff. Plaintiff further observed that the photos were directly taken or copied from the Plaintiff's websites.

35. Defendant's mark was also substantially similar to Plaintiff's mark, thereby causing likelihood of confusion among the consumers. PARIS HOUSE OF CREPES is a mark that is substantially similar to Plaintiff's mark, CREPES DE PARIS. For example, besides the word "House" that was used and advertised by Defendant for its mark, the remaining words are exactly the same. "Crepes de Paris" rearranged in exact words are "Paris of Crepes." Furthermore, throughout the PARIS HOUSE OF CREPES' Menu and the retail store, the imagery of Eiffel Tower can be seen next to the Defendant's name.

36. In May 2017, Plaintiff obtained a copy of Defendant's Menu from Defendant's place of business. Plaintiff discovered that the Menu was exactly the same on the content of the goods, the order of the products categorized and listed in the Menu, and the italicized font size of the description of the goods. Notwithstanding the different font used for the categories listed in the Menu, Defendant's Menu is exactly the same as of Plaintiff's. Plaintiff believes, and

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therefore alleges, that Defendants VALDEZ and MAGANA had deliberately and intentionally taken Plaintiff's Menu with the intent to copy such Menu for the purposes of beginning a new business with Defendant SALGADO.

37. In May 21, 2017, Plaintiff ordered several food products from Defendant PARIS HOUSE OF CREPES. Specifically, Plaintiff ordered a Tuna Salad Sandwich, Iced Cappuccino, Chicken-Spinach Crepe, Lorina Soda, and Fresh Juice. Plaintiff discovered that the goods designs ordered and the glasswares which was used to place the food were exactly the same or substantially similar to Plaintiff's goods.

38. Plaintiff also observed that the coffee cups, crepes plates, and other glasswares used by Defendant for advertisement were exactly the same one used by Plaintiff. Plaintiff is informed and believes, and thereon alleges, that Defendants VALDEZ and MAGANA had converted the cups, plates, and other glasswares, and used it for the purposes of Defendant's profit.

39. Plaintiff has never given any permission, via a license, a writing, or any other instrument, whatsoever, for the Defendants to use the two marks in association with providing any of the products noted herein. Plaintiffs also had not consented to, sponsored, endorsed, nor approved of Defendants' use of the two marks or any similar variations thereof in connection with the manufacture, marketing, and/or sale of any products or services.

40. Defendants' conducts are classic examples trademark infringement and unfair competition. Defendants offer other non-authentic or copied products to consumers under the substantially similar trademark of another and without authorization to do so. That is, the Defendants are inducing consumers to purchase Defendants' goods by advertising that such goods are authentic and legitimate to Plaintiff's business. Defendants' are trading off of the goodwill and reputation

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associated with the EIFFEL TOWER mark and CREPES DE PARIS mark, at a detriment to Plaintiff.

41. Defendants' conducts are also classic examples of common law copyright infringement and vicarious and/or contributory copyright infringement. Defendants had taken control, made copies or derivative works of Plaintiff's copyrighted goods, including coffee or cappuccino cream designs, crepes designs, Menu designs, photographs, coffee cup designs, as well as other Plaintiff's goods at the detriment to Plaintiff and without Plaintiff's consent.

42. Defendants' activity and conduct is clearly very likely to cause confusion, because the Defendants are using the substantially similar name as CREPES DE PARIS mark in relation to offering to sell the same purported type of goods, and are simultaneously using the exact same product designs, Menu, and photographs. By using the substantially similar name, the same purported type of goods, and means and methods of distribution of goods, Defendants are targeting the exact same type of customer who ordinarily would be searching for and purchasing authentic and legitimate CREPES DE PARIS goods. This is classic trademark and copyright infringement by the Defendants unfairly competing with Plaintiff and his company, by using substantially similar name PARIS HOUSE OF CREPES in a manner that is extremely likely to cause confusion as to the origin of the purchased goods and as to the quality associated with CREPES DE PARIS goods. One purpose of trademark law is to avoid confusion in the marketplace by allowing the trademark owner to prevent others from duping consumers into buying a product they mistakenly believe is sponsored by the trademark owner.

43. Upon information and belief, Defendants' infringing and unfair competing activities and conduct are conscious, intentional, and willful.

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44. Plaintiff has never authorized Defendants' to manufacture, distribute, advertise, offer for sale, and/or sell merchandise in association with the CREPES DE PARIS mark.

45. Plaintiff has never permitted Defendants to use his photographs to advertise, offer for sale, and/or sell merchandise on the Yelp homepage or anywhere else.

46. Further, Defendants' conduct as noted herein is also common law fraud for the consumers of Defendants that have purchased goods from Defendants that were sold as allegedly being authentic and legitimate Crepes de Paris goods. Plaintiff has a vested interest in protecting the reputation and goodwill in the CREPES DE PARIS and EIFFEL TOWER marks which includes informing such customers of Defendants that those customers had not purchased authentic and legitimate goods from the Defendants.

47. Plaintiff is also informed and believes, and thereon alleges, that Defendants had taken possession of coffee cups, plates, other glassware, as well as Plaintiff’s Menu designs and other items, without the authorization of Plaintiff, thereby committing common law conversion.

48. Individuals are included in this action because the causes of actions (claims), whether statutory or based in common law, sound in tort, and it is well settled law that the 1 individual tortfeasor may always be held personally liable for the torts they have committed. Defendant ARZATE MAURICIO SALGADO, Defendant JOSE F. MAGANA and/or Defendant LETICIA VALDEZ have acted, authorized, sanctioned, ratified, and/or are responsible for Defendant PARIS SEAFOOD & CREPES's conduct and for the unlawful conduct noted herein.

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FIRST CAUSE OF ACTION

Federal Statutory Trademark Infringement Under 15 U.S.C. §1114

(Against All Defendants)

49. Plaintiff incorporates herein by reference paragraphs 1 through 48 above as though fully set forth herein.

50. Plaintiff's federally registered trademark, with U.S. Registration No. 4,936,207 and with U.S. Registration No. 3,293,337 are valid and in full force and effect across the entire United States.

51. Plaintiff has never authorized Defendants to manufacture, distribute, advertise, offer for sale, and/or sell merchandise in association with the CREPES DE PARIS or EIFFEL TOWER marks. Therefore, Defendants' use of the two marks is without permission or authority, and is in total disregard of Plaintiff's intellectual property rights to control and use his mark.

52. Defendants' unauthorized use and advertising of the CREPES DE PARIS or EIFFEL TOWER marks in interstate commerce constitutes false designation of origin and a false representation that Defendants' goods are manufactured, offered, sponsored, authorized, licensed by or otherwise connected with Plaintiff or come from the same source as Plaintiff's goods and are of the same quality as that assured by the two marks; neither of which are true.

53. Defendants' activities are likely to lead to and result in confusion, mistake or deception and are likely to cause consumers, the public, or trade to believe that Plaintiff has produced, manufactured, sponsored, offered, authorized, licensed or otherwise affiliated with Defendants' company or business, to the detriment of Plaintiff.

54. Upon information and belief, Defendants' actions are deliberate, conscious, willful and intended to confuse consumers and the public as to the

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origin of Defendants' goods in order to reap the benefit of Plaintiff's goodwill associated with the CREPES DE PARIS and EIFFEL TOWER marks.

55. As a direct and proximate result of Defendants' infringing activities, Plaintiff has been injured and will continue to suffer injury to his business and goodwill unless Defendants are restrained by this Court from further infringing the CREPES DE PARIS and EIFFEL TOWER marks.

56. Defendants' actions have damaged and will continue to damage Plaintiff, and Plaintiff has no adequate remedy at law.

57. Based on the foregoing, Plaintiff is entitled to injunctive relief enjoining Defendants from continuing to use the CREPES DE PARIS and EIFFEL TOWER marks, and to recover from Defendants all damages, including the costs of this action pursuant 15 U.S. C. § 1117(a), to attorneys' fees and treble damages pursuant to 15 U.S.C. §1117(b), and/or statutory damages pursuant to15 U.S.C. § 1117(c), all of which have been or will be incurred as a result of Defendants' infringing acts.

SECOND CAUSE OF ACTION

Federal False Designation of Origin and False Advertising Under 15 U.S.C. §1125(a)

(Against all Defendants)

58. Plaintiff incorporates herein by reference paragraphs 1 through 57 above as though fully set forth herein.

59. The CREPES DE PARIS mark is a nonfunctional mark and serves to identify Plaintiffs' products such as, but not limited to, crepes, crepes designs, coffee cream designs, Plaintiff’s Menu listings and designs, cups, plates, and other glassware.

60. Defendants' promotion, advertising, distribution, sale, and/or offering for sale of products in association with the CREPES DE PARIS mark is intended

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and likely to confuse, mislead, deceive consumers, the public, and the trade as to the origin, source, sponsorship, or affiliation of Defendants' products; and is intended and likely to cause such parties to believe in error that Defendants' products have been authorized, sponsored, approved, endorsed or licensed by Plaintiff; or that Defendants are in some way affiliated with Plaintiff and the CREPES DE PARIS mark. Defendants engaged in passing off Defendants' products as those of Plaintiff's. Defendants' use of the CREPES DE PARIS mark is wholly without permission or authority, and is in total disregard of Plaintiff's intellectual property rights to control and use his mark.

61. Defendants' actions have damaged and will continue to damage Plaintiff, and Plaintiff has no adequate remedy at law.

62. Based on the foregoing, Plaintiff is entitled to injunctive relief enjoining Defendants from continuing to use the CREPES DE PARIS mark, and to recover from Defendants all damages, including the costs of this action pursuant 15 U.S.C. § 1117(a), to attorneys' fees and treble damages pursuant to 15 U.S.C. §1117(b), and/or statutory damages pursuant to15 U.S.C. §1117(c), all of which have been or will be incurred as a result of Defendants' infringing acts.

THIRD CAUSE OF ACTION

California Unfair Competition and False Advertising under Cal. Bus. & Prof. Code §§17200 and 17500, et seq.

(Against all Defendants)

63. Plaintiff incorporates herein by reference paragraphs 1 through 62 above as though fully set forth herein.

64. The actions and conduct of Defendants described above and specifically, without limitation, their unauthorized use of the CREPES DE PARIS mark, and any confusingly similar variations thereof, in commerce, to advertise, promote, market, and sell products throughout in California; as well as Defendants'

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unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue, or misleading advertising by selling confusingly similar variations of Plaintiff's legitimate CREPES DE PARIS goods in the state of California, that has substantial economic impact in interstate commerce, constitutes trademark infringement, false advertising, and unfair competition in violation of the laws of the State of California.

65. By these actions and conduct, Defendants have engaged in false advertising and unfair competition in violation of the statutory law of the State of California, Cal. Bus. & Prof. Code §§ 17200 and 17500, et seq.; and as a result, Plaintiff has suffered and will continue to suffer damage to its business, reputation, and goodwill.

66. As a direct and proximate result of Defendants' willful and intentional actions, Plaintiff has suffered damages in an amount to be determined at trial, and unless Defendants are restrained, Plaintiff will continue to suffer irreparable damage.

FOURTH CAUSE OF ACTION

California Common Law for Trademark Infringement and Unfair Competition

(Against all Defendants)

67. Plaintiff incorporates herein by reference paragraphs 1 through 66 above as though fully set forth herein.

68. Plaintiff owns and enjoys common law trademark rights in the CREPES DE PARIS mark in California and throughout the United States by virtue of continued use in commerce in all 50 U.S. states.

69. Defendants' unlawful acts in appropriating rights in the CREPES DE PARIS mark and using Plaintiff's photos were intended to cause a likelihood of confusion and were intended to capitalize on and trade off of the reputation and

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goodwill in the CREPES DE PARIS mark for Defendants' own financial gain. Defendants engaged in passing off Defendants' products as those of Plaintiffs. Plaintiff has expended substantial time, resources, and effort to build its goodwill and good reputation in the CREPES DE PARIS mark.

70. As a result of Plaintiffs efforts, Defendants are now unjustly enriched and benefiting from property rights wholly owned by Plaintiff and not Defendants.

71. Defendants' unauthorized use of the CREPES DE PARIS mark and of Plaintiff's photos has caused and is likely to cause confusion as to the source of Defendants' products, all to the detriment of Plaintiff.

72. Defendants' acts are willful, deliberate, and intended to confuse consumers and the public and to injure Plaintiff.

73. Defendants' acts constitute trademark infringement and unfair competition under California common law.

74. Plaintiff has been irreparably harmed and will continue to be irreparably harmed as a result of Defendants' unlawful acts unless Defendants are permanently enjoined from Defendants' unlawful conduct.

75. The conduct herein complained of was extreme, outrageous, fraudulent, and was inflicted on Plaintiff in reckless disregard of Plaintiffs rights such that it supports an award of exemplary and punitive damages in an amount sufficient to punish and make an example of the Defendants and to deter them from similar such conduct in the future.

76. Defendants' acts have damaged and will continue to damage Plaintiff, and Plaintiff has no adequate remedy at law.

77. In light of the foregoing, Plaintiff is entitled to injunctive relief enjoining Defendants from using the CREPES DE PARIS mark, Plaintiffs' photos, designs, or any other goods associated with Plaintiff, and to recover all damages, including attorneys' fees, that Plaintiff has sustained and will sustain and all gains,

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profits and advantages obtained by Defendants as a result of Defendants' infringing acts alleged above in an amount not yet known, as well as the costs of this action.

FIFTH CAUSE OF ACTION

Trade Dress Infringement

(Against all Defendants)

78. Plaintiff incorporates herein by reference paragraphs 1 through 77 above as though fully set forth herein.

79. Plaintiff's trade dress at issue in this action consists, among other things, of the goods including, but not limited to, Plaintiff's Crepes De Paris restaurant style and design, Menu listings and designs, crepes design, coffee or cappuccino cream design, other food designs, and coffee cups, plates, and other glasswares, and photographs.

80. Plaintiff's trade dress is nonfunctional.

81. The trade dress of CREPES DE PARIS is inherently distinctive and has acquired secondary meaning. Plaintiff has been selling the food products with its distinctive trade dress since at least 2007 in and around Southern California and has devoted substantial time, effort, and expense to marketing and selling its products.

82. Plaintiff is informed and believes, and thereon alleges, that Defendants have been advertising, marketing, distributing, selling, and offering to sell using goods, devices, designs and other instruments that incorporate Plaintiff's.

83. Defendants are not now, and never have been, authorized by Plaintiff to use its trade dress or any confusingly similar trade dress in connection with advertising, marketing, distributing, selling, and offering to sell using goods, devices, designs, and other instruments that incorporate Plaintiff's.

84. Defendants' advertising, marketing, distributing, selling, and offering to sell using goods, devices, designs, and other instruments is likely to cause

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confusion, mistake, and/or deception among consumers as to the source, quality and nature of Plaintiff's business.

85. Plaintiff is informed and believes and thereon alleges that as a proximate result of the unfair advantage accruing to Defendants' business from deceptively trading on Plaintiff's efforts, including design, manufacture, advertising, sales, and consumer recognition, Defendant has made substantial sales and profits in amounts to be established according to proof.

86. As a proximate result of the unfair advantage accruing to Plaintiff's business from deceptively trading on Plaintiff's design, manufacture, advertising, sales, and consumer recognition, Plaintiff's business has been damaged and deprived of substantial sales of its goods and has been deprived of the value of its trade dress as a commercial asset, in amounts to be established according to proof.

87. Plaintiff is informed and believes, and thereon alleges that, unless restrained by the Court, Defendants will continue to infringe Plaintiff's trade dress, and that pecuniary compensation will not afford Plaintiff adequate relief for the damage to its trade dress in the public perception. Further, Plaintiff is informed and believes, and thereon alleges, that in the absence of injunctive relief, customers are likely to continue being mistaken or deceived as to the true source, origin, sponsorship, and affiliation of Defendants' goods.

88. Plaintiff is informed and believes, and thereon alleges, that Defendants' acts were committed, and continue to be committed, with intent to cause confusion, to cause mistake, and/or to deceive, and to cause injury to the reputation and goodwill associated with Plaintiff and its products. Pursuant to 15 U.S.C. § 1117, Plaintiff is therefore entitled to recover three times its actual damages or three times Defendant's profits, whichever is greater, together with Plaintiffs attorneys' fees. In addition, pursuant to 15 U.S.C. § 1118, Plaintiff is

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entitled to an order requiring destruction of all infringing products and promotional materials in Defendant's possession.

SIXTH CAUSE OF ACTION

California Copyright Infringement under §980 *et seq* and California Common Law

(Against All Defendants)

89. Plaintiff incorporates herein by reference paragraphs 1 through 88 above as though fully set forth herein.

90. At all times relevant herein, Plaintiff has held and still holds the exclusive rights under California law and common law to reproduce, distribute, or license the reproduction and distribution of Plaintiff’s designs, photographs, and goods in its relation to CREPES DE PARIS mark and EIFFEL TOWER mark, and any designs in association with Plaintiff’s business in any and all formats and mediums, throughout the United states.

91. The design, photographs, and goods have been the original works in tangible form which have been widely disseminated throughout the state of California since at least 2007.

92. Defendants have marketed, distributed, offered to sell and sold goods bearing imagery that was copied without authorization from Plaintiff.

93. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, had access to the designs of the goods, including, without limitation, through access to the goods, marketing material, and websites that incorporate the Plaintiff’s designs, devices, instruments, and other goods created by Plaintiff.

94. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, infringed Plaintiff’s copyrights by creating, making, and/or developing directly infringing and/or derivative works from Plaintiff and by

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producing, distributing and/or selling goods that infringes Plaintiff's rights in the Plaintiff's works by creating and operating a business under the name Paris House of Crepes in Moreno Valley, California.

95. Due to Defendants' acts of infringement, Plaintiff has suffered substantial damages to its business in an amount to be established according to proof.

96. Due to Defendants' acts of infringement, Plaintiff has suffered general and special damages in an amount to be established according to proof.

97. Due to Defendants' acts of copyright infringement as alleged herein, Defendants, and each of them, have obtained direct and indirect profits they would not otherwise have realized but for their infringement of the Menu, food designs, and photos. As such, Plaintiff is entitled to disgorgement of Defendant's profits directly and indirectly attributable to Defendant's infringement of the Menu, food designs, and photos in an amount to be established according to proof.

98. Defendants' acts have irreparably harmed and continue to harm Plaintiff's exclusive proprietary rights and constitute common law copyright infringement and unfair competition. Defendants' willful, intentional, and outrageous conduct supports an award of exemplary and punitive damages in an amount sufficient to punish and make an example of Defendants and to deter them from similar conduct in the future.

SEVENTH CAUSE OF ACTION

Vicarious and/or Contributory Copyright Infringement

(Against All Defendants)

99. Plaintiff incorporates herein by reference paragraphs 1 through 98 above as though fully set forth herein.

100. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, knowingly induced, participated in, aided and abetted in and

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profited from the illegal reproduction and/or subsequent sales of Menu, food designs, and photos featuring Plaintiff's works as alleged herein.

101. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, are vicariously liable for the infringement alleged herein because they had the right and ability to supervise the infringing conduct and because they had a direct financial interest in the infringing conduct.

102. By reason of the Defendants', and each of their acts of contributory and vicarious infringement as alleged above, Plaintiff has suffered and will continue to suffer substantial damages to its business in an amount to be established according to proof, as well as additional general and special damages in an amount to be established according to proof.

103. Due to Defendants', and each of their acts of copyright infringement as alleged herein, Defendants, and each of them, have obtained direct and indirect profits they would not otherwise have realized but for their infringement of Plaintiff's works. As such, Plaintiff is entitled to disgorgement of Defendants' profits directly and indirectly attributable to Defendants' infringement of the Menu, food designs, and photos, in an amount to be established according to proof.

104. Defendants' acts have irreparably harmed and continue to harm Plaintiff's exclusive proprietary rights and constitute common law copyright infringement and unfair competition. Defendants' willful, intentional, and outrageous conduct supports an award of exemplary and punitive damages in an amount sufficient to punish and make an example of Defendants and to deter them from similar conduct in the future.

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EIGHTH CAUSE OF ACTION

(Conversion)

(Against all Defendants)

105. Plaintiff incorporates herein by reference paragraphs 1 through 104 above as though fully set forth herein.

106. Plaintiff is, and at all times relevant herein was the owner of or entitled to immediately possess the following items of property: cups, plates, other glassware, menu, food designs, photographs, and CREPES DE PARIS mark.

107. Defendants wrongfully interfered with Plaintiff's interests in the above-described properties by wrongfully taking control and diverting such properties, and using them to market on Defendants' Yelp website, or otherwise using such items for the purposes of marketing, promoting, and/or offering to sell to the consumers.

108. Plaintiff had not consented to, sponsored, endorsed, nor approved of Defendants' conduct in using any of the above-mentioned properties for any such use.

109. By reason of the Defendants' conducts, Plaintiff has suffered and will continue to suffer substantial damages to its business in an amount to be established according to proof, as well as additional general and special damages in an amount to be established according to proof.

PRAYER FOR RELIEF

AS TO THE FIRST, SECOND, THIRD, FOURTH, FIFTH, SIXTH, AND SEVENTH CAUSES OF ACTION:

1. For a temporary, preliminary, and permanent injunctive relief restraining and enjoining Defendants, its officers, directors, owners, agents, employees, and affiliates from:

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(a) manufacturing, advertising, marketing, promoting, supplying, distributing, offering for sale, or selling any products which are alleged to be Plaintiff's products, or any other mark, dress, or copyright confusingly similar thereto;

(b) manufacturing, importing, advertising, marketing, promoting, supplying, distributing, offering for sale, or selling any products which bear the Plaintiff's mark, or any other mark, dress, or copyright confusingly similar thereto;

(c) engaging in any other activity constituting unfair competition with Plaintiff, or acts and practices that deceive consumers, the public, and/or trade; and

(d) committing any other act which falsely represents or which has the effect of falsely representing that the goods and services of Defendants are licensed by, authorized by, offered by, produced by, sponsored by, endorsed by, or in any other way affiliated with Plaintiff or with the Plaintiff's mark;

2. For an accounting by Defendants of all gains, profits and advantages derived from its wrongful acts, such as, but not limited to, the sale of products under the Plaintiff's mark;

AS TO THE FIRST, SECOND, FIFTH CAUSES OF ACTION:

3. For treble damages in the amount of Defendants' profits or in the amount of Plaintiffs damages, whichever is greater, for willful infringement pursuant to 15 U.S.C. §1117(b);

4. For exemplary and punitive damages;

AS TO THE THIRD, FOURTH, SIXTH, AND SEVENTH CAUSES OF ACTION:

5. For exemplary and punitive damages;

AS TO ALL CAUSES OF ACTION:

6. For compensatory damages in the amount to be proven at trial;

7. For applicable interest, costs, disbursements and attorneys' fees; and

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8. For any such other and further relief as the Court may deem just and appropriate.

Dated: June 8, 2017 LAW OFFICES OF THOMAS F. NOWLAND

By: */s/Thomas F. Nowland*
Thomas F. Nowland, Esq.
Daniel A. Brodnax, Esq.
Attorneys for Plaintiff Crepes de Paris, Inc.

DEMAND FOR JURY TRIAL

Defendants demand a trial by jury.

Dated: June 8, 2017 LAW OFFICES OF THOMAS F. NOWLAND

By: */s/ Thomas F. Nowland*
Thomas F. Nowland, Esq.
Daniel A. Brodnax, Esq.
Attorneys for Plaintiff Crepes de Paris, Inc.

CERTIFICATE OF SERVICE

I certify that on June 8, 2017, I electronically filed the foregoing with the Clerk of the Court using the EM/ECF system, which then sends a notification to all participants.

/s/ Joseph F. Desiderio
Joseph F. Desiderio